

REMARKS/ARGUMENTS

Reconsideration of this application is respectfully requested.

In response to outstanding formality-based grounds of objection/rejection to the specification and claims, the entire application has been reviewed and amended above so as to put it into more traditional and acceptable US format.

The caution against incorporating essential material by reference to a foreign application or patent or publication is not understood. So far as the undersigned is aware, no such essential matter is incorporated by reference anywhere in this specification. If the Examiner believes otherwise, it is respectfully requested that such be particularly pointed out so that appropriate action can be taken.

The rejection of claims 1-8 under 35 U.S.C. §102 as allegedly anticipated by Marazakis et al. is respectfully traversed.

Initially, it is noted that the Examiner is relying upon the same prior art paper cited by the EPO Examiner in the IPER. There, in Section 2.3, it will be noted that the EPO Examiner correctly noted a distinction between the applicant's invention and the prior art – e.g., the presence of a process management system and a separate data analysis system which receives and stores performance data from the process management system. Although the USPTO Notice of Acceptance indicates that a copy of the IPER should already be present in this file, an additional copy is attached herewith for the Examiner's convenience just in case it is not otherwise readily accessible.

The rejected claims have been amended above so as to make this distinction more clearly and readily apparent. There are, of course, additional distinctions, one of which is noted in more detail below.

The Examiner equates features b) and c) of claim 1 with the logging system associated with the session manager. The Examiner then equates feature e) of claim 1 with the management application's retrieval of data from the logging system. However, feature e) of claim 1 now makes it clear that the data analysis system gets data from the process management system and stores it in the store recited in features b) and c) of the claim. Marazakis doesn't do that – it gets the data from the logging system and stores it somewhere else.

The rejection of claim 9 under 35 U.S.C. §102 as allegedly anticipated by Wilson et al. '976 is also respectfully traversed.

Initially, it is noted that applicant is entitled to a priority date of at least 31 March 1999. Wilson et al. '976 was filed as a continuation-in-part on August 3, 1999 – after applicant's priority date. Accordingly, it is not clear what relevant portion, if any, of Wilson et al. '976 is entitled to any date prior to applicant's priority date. Accordingly, this ground of rejection is believed to be deficient for that reason alone.

The parent of Wilson et al. '976 was application 08/821,698 filed March 20, 1997 now US Patent No. 5,958,010. It is noted that the parent '010 patent has only 5 sheets of drawings and 9 columns of text (exclusive of claims). On the other hand the CIP that issued as Wilson et al. '976 includes 14 sheets of drawings and 20 columns of text (exclusive of claims). The Examiner has cited and relied upon an extensive selection of extracts from Wilson et al. '796

scattered throughout columns 4, 5, 6, 13, 14, and 17. Some of those columns of text simply do not even exist in the parent '010 patent – the only document that appears to have an early enough date to actually constitute “prior art” with respect to the present application. Accordingly, if the Examiner wishes to continue with this ground of rejection, it is respectfully requested that it be based upon the appropriate US Patent No. 5,958,010 and that relevant portions of this actual prior art document then be cited as a basis for any such rejection.

In addition, the Examiner apparently equates feature i) of claim 9 with three passages of Wilson '976. These relate to the sending of events on some problem arising, and the reaction of the controller to the production of such an event. However, this does not show that Wilson '976 teaches ‘a request input for receiving a data analysis service request from the process management system’.

Feature iv) of claim 9 involves the fetching of a definition of the service requested in the service request received at the input of feature i). The Examiner equates this to the table shown in Figure 11. But that is the wrong way round – the claim says that receiving the service request (feature i)) results in the fetching of a definition of that service (feature iv)) whereas the exception definition in Figure 11 (which the Examiner equates with feature iv)) results in the sending of an event (which the Examiner equates with feature i)).

Attention is also drawn to new method claims 10-17 which can be analogized in many respects to apparatus claims 1-7 and 9 respectively. These method claims are also believed to be patentably distinct from any teaching or suggestion of the prior art.


CUI et al
Appl. No. 09/936,522
February 18, 2005

Accordingly, this entire application is now believed to be in allowable condition and a formal Notice to that effect is respectfully solicited.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By:


Larry S. Nixon
Reg. No. 25,640

LSN:vc
1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714
Telephone: (703) 816-4000
Facsimile: (703) 816-4100